

**AMENDMENT TO H.R. 1424, AS REPORTED**  
**OFFERED BY MR. STUPAK OF MICHIGAN**

[Amendment is to H1424NEW\_009, As Posted on the Rules  
Committee Website]

Strike section 5 (page 55, line 18, through page 56,  
line 10) and insert the following:

**1 SEC. 5. EXTENSION OF PRESCRIPTION DRUG DISCOUNTS**  
**2 TO ENROLLEES OF MEDICAID MANAGED**  
**3 CARE ORGANIZATIONS.**

**4 (a) IN GENERAL.**—Section 1903(m)(2)(A) of the So-  
**5 cial Security Act (42 U.S.C. 1396b(m)(2)(A)) is amend-**  
**6 ed—**

**7 (1) in clause (xi), by striking “and” at the end;**

**8 (2) in clause (xii), by striking the period at the**  
**9 end and inserting “; and”; and**

**10 (3) by adding at the end the following:**

**11 “(xiii) such contract provides that (I)**  
**12 payment for covered outpatient drugs dis-**  
**13 pensed to individuals eligible for medical**  
**14 assistance who are enrolled with the entity**  
**15 shall be subject to the same rebate re-**  
**16 quired by the agreement entered into**  
**17 under section 1927 as the State is subject**

1 to and that the State shall allow the entity  
2 to collect such rebates from manufacturers,  
3 and (II) capitation rates paid to the entity  
4 shall be based on actual cost experience re-  
5 lated to rebates and subject to the Federal  
6 regulations requiring actuarially sound  
7 rates.”.

8 (b) CONFORMING AMENDMENTS.—Section 1927 of  
9 such Act (42 U.S.C. 1396r-8) is amended—

10 (1) in subsection (d)—

11 (A) in paragraph (1), by adding at the end  
12 the following:

13 “(C) Notwithstanding subparagraphs (A) and  
14 (B)—

15 “(i) a medicaid managed care organization  
16 with a contract under section 1903(m) may ex-  
17 clude or otherwise restrict coverage of a covered  
18 outpatient drug on the basis of policies or prac-  
19 tices of the organization, such as those affecting  
20 utilization management, formulary adherence,  
21 and cost sharing or dispute resolution, in lieu of  
22 any State policies or practices relating to the  
23 exclusion or restriction of coverage of such  
24 drugs; and

1           “(ii) nothing in this section or paragraph  
2           (2)(A)(xiii) of section 1903(m) shall be con-  
3           strued as requiring a medicaid managed care  
4           organization with a contract under such section  
5           to maintain the same such policies and practices  
6           as those established by the State for purposes  
7           of individuals who receive medical assistance for  
8           covered outpatient drugs on a fee-for service  
9           basis.”; and

10           (B) in paragraph (4), by inserting after  
11           subparagraph (E) the following:

12           “(F) Notwithstanding the preceding sub-  
13           paragraphs of this paragraph, any formulary  
14           established by a medicaid managed care organi-  
15           zation with a contract under section 1903(m)  
16           may be based on the positive inclusion of drugs  
17           selected by a formulary committee consisting of  
18           physicians, pharmacists, and other individuals  
19           with appropriate clinical experience as long as  
20           drugs excluded from the formulary are available  
21           through prior authorization, as described in  
22           paragraph (5).”; and

23           (2) in subsection (j), by striking paragraph (1)  
24           and inserting the following:

1       “(1) Covered outpatients drugs are not subject to the  
2 requirements of this section if such drugs are—

3           “(A) dispensed by a health maintenance organi-  
4 zation other than a medicaid managed care organi-  
5 zation with a contract under section 1903(m); and

6           “(B) subject to discounts under section 340B of  
7 the Public Health Service Act.”.

8       (c) EFFECTIVE DATE.—The amendments made by  
9 this section take effect on the date of the enactment of  
10 this Act and apply to rebate agreements entered into or  
11 renewed under section 1927 of the Social Security Act (42  
12 U.S.C. 1396r-8) on or after such date.